

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, : CRIMINAL CASE NUMBER
PLAINTIFF :
VERSUS : 21-CR-088-1
ANTHONY FRANCIS NERO, :
DEFENDANT :

JULY 15, 2021
COURTROOM 5B
PHILADELPHIA, PA 19106

BEFORE THE HONORABLE KAREN S. MARSTON, J.

STATUS HEARING

APPEARANCES:

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PROCEEDINGS RECORDED BY STENOGRAPHY-COMPUTER,
TRANSCRIPT PRODUCED BY COMPUTER-AIDED TRANSCRIPTION

1 CONTINUED APPEARANCES:

2 TIMOTHY WOODWARD, SR., ESQUIRE
3 509 SWEDE STREET
4 NORRISTOWN, PA 19401

5 COUNSEL FOR THE DEFENDANT

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1 (CLERK OPENS COURT.)

2 THE COURT: GOOD AFTERNOON, EVERYONE.

3 PLEASE BE SEATED.

4 I AM CALLING THE CASE OF UNITED STATES OF
5 AMERICA VERSUS ANTHONY FRANCIS NERO. IT IS CRIMINAL
6 DOCKET NUMBER 21-88.

7 WILL COUNSEL PLEASE STATE THEIR NAMES FOR
8 THE RECORD.

9 MR. DAVISON: JOSH DAVISON FOR THE
10 GOVERNMENT. GOOD AFTERNOON, YOUR HONOR.

11 THE COURT: GOOD AFTERNOON, MR. DAVISON.

12 MR. WOODWARD: GOOD AFTERNOON, YOUR
13 HONOR. TIMOTHY WOODWARD ON BEHALF OF MR. NERO.

14 THE COURT: ALL RIGHT. GOOD AFTERNOON TO
15 YOU, AND GOOD AFTERNOON, MR. NERO, HOW ARE YOU?

16 THE DEFENDANT: GOOD AFTERNOON, YOUR
17 HONOR.

18 THE COURT: ALL RIGHT. WELL, WE ARE HERE
19 TODAY BECAUSE I FIRST RECEIVED -- WELL, WE COMMUNICATED
20 A WHILE AGO, AND THE REASON WE COMMUNICATED WAS BECAUSE
21 I WANTED TO BE SURE THAT WE CAN GET THIS TRIAL IN JULY,
22 IF WE NEEDED TO, BECAUSE WE HAVE CERTAIN COVID PROTOCOLS
23 THAT WE ARE DEALING WITH AND I KNEW THERE WAS AN
24 OPENING.

25 THAT BEING THE CASE, AT THAT POINT IN

1 TIME I HEARD THAT YOU WOULD MOST LIKELY NEED MORE TIME
2 FOR -- AND I MADE IT POSSIBLY -- IF MR. NERO DECIDES HE
3 WANTS A NON-TRIAL DISPOSITION, TO NEGOTIATE THAT. BUT
4 ALSO BECAUSE THERE'S AN EVALUATION THAT NEEDS TO TAKE
5 PLACE.

6 SO THEN I GOT A MOTION TO CONTINUE FROM
7 THE GOVERNMENT, BUT THE ISSUE FROM THE GOVERNMENT'S
8 POINT OF VIEW, AND IT WAS ALL BASED ON THE -- I THINK IT
9 WAS THE COVID STANDING ORDERS, BUT I DON'T THINK I CAN
10 GRANT THAT GIVEN THAT I CAN GET THIS TRIED IN JULY, IF
11 NEED BE.

12 BUT I NOW HAVE A MOTION TO CONTINUE FROM
13 THE DEFENDANT, AND I WANT TO BE SURE THAT MR. NERO IS
14 CLEAR ABOUT THAT BECAUSE THERE IS A NEED FOR A
15 PSYCHOLOGICAL EVALUATION, AND IT SOUNDS LIKE RIGHT NOW
16 THERE IS DIFFICULTIES GETTING THAT DONE, IS THAT
17 CORRECT?

18 MR. WOODWARD: THAT'S CORRECT, YOUR
19 HONOR.

20 THE COURT: AND THE DIFFICULTIES -- I

21 UNDERSTAND MR. NERO IS IN THE SHU, IS THAT CORRECT?

22 THE DEFENDANT: THAT'S CORRECT.

23 THE COURT: ANYBODY WANT TO ELABORATE WHY
24 HE IS IN THE SHU?

25 THE DEFENDANT: I HAD A DISAGREEMENT WITH

1 ONE OF THE CORRECTION OFFICERS.

2 THE COURT: THAT'S NOT A GOOD IDEA.

3 THE DEFENDANT: THAT'S NOT GOOD.

4 THE COURT: HOW LONG ARE YOU GOING TO BE
5 IN THE SHU?

6 THE DEFENDANT: FOR 30 DAYS, STARTING
7 YESTERDAY. SO 29 MORE DAYS.

8 THE COURT: OKAY. ARE WE UNABLE TO
9 ACTUALLY DO THE EVALUATION WHILE HE IS IN THE SHU?

10 MR. WOODWARD: DR. DATTILIO, YOUR HONOR,
11 DOES NOT WANT TO DO THE EVALUATION WHILE HE IS IN THE
12 SHU. DR. DATTILIO'S POSITION IS THAT TYPICALLY THE
13 CLIENTS ARE AGITATED, IT'S LOUD, IT'S JUST NOT
14 CONDUCIVE. AND HE NEEDS TO SPEND, AS HE SAYS, ABOUT 7
15 OR 8 HOURS WITH MR. NERO. SO THAT'S THE DOCTOR. WE
16 ACTUALLY HAD THE EVALUATION SET UP FOR FRIDAY, JULY 9TH.

17 THE COURT: OKAY. BUT WHERE HE WILL DO
18 THE EVALUATION IS WHERE YOU WOULD MEET WITH HIM IN THAT
19 ROOM WITH -- THE INDIVIDUAL ROOMS, YOU KNOW, IN THE
20 GENERAL AREA?

21 MR. WOODWARD: YES, TYPICALLY THAT'S WHAT
22 HE DOES.

23 THE COURT: LIKE IF YOU WANTED TO GO AND
24 VISIT, THEY HAVE THAT BIG ROOM AND THEN THERE IS THE
25 INDIVIDUAL ROOMS, AND THAT'S WHERE HE WILL CONDUCT THE

1 EVALUATION?

2 MR. WOODWARD: YES, YOUR HONOR.

3 THE COURT: I JUST WANTED TO MAKE SURE I
4 AM UNDERSTANDING THAT.

5 SO HAVE YOU HAD THE TIME TO TALK TO YOUR
6 CLIENT ABOUT HIS SIXTH AMENDMENT RIGHTS?

7 MR. WOODWARD: I DID, YOUR HONOR. THIS
8 IS THE FIRST TIME THAT I HAVE HAD THE OPPORTUNITY TO
9 TALK TO HIM BECAUSE OF HIS SITUATION AT THE PRISON. I
10 HAD HIM SIGN A WAIVER OF THE SPEEDY TRIAL RIGHTS BEFORE
11 YOUR HONOR WALKED IN THE COURTROOM.

12 THE COURT: WONDERFUL. DO YOU HAVE THAT?

13 MR. WOODWARD: I GAVE THAT TO LARA.

14 THE COURT: I HAVE IT, THANK YOU. IT
15 HELPS TO LOOK AT WHAT PEOPLE PUT ON THE BENCH.

16 OKAY, GREAT. SO I HAVE BEFORE ME WHAT
17 LOOKS LIKE A WAIVER OF YOUR SPEEDY TRIAL RIGHTS. IT
18 APPEARS TO BE SIGNED BY YOU, MR. NERO, IS THAT
19 CORRECT --

20 THE DEFENDANT: THAT'S CORRECT.

21 THE COURT: -- YOUR SIGNATURE. AND ARE
22 YOU THE WITNESS, YOUR ATTORNEY IS THE WITNESS?

23 MR. WOODWARD: I WAS THE WITNESS, YOUR
24 HONOR.

25 THE COURT: OKAY. IT'S QUITE A

1 SIGNATURE.

2 MR. WOODWARD: ALTHOUGH THE MARSHAL WAS
3 SITTING RIGHT HERE, TOO. BUT I DIDN'T WANT TO ASK HIM
4 TO DO IT.

5 THE COURT: OKAY. AND IT'S DATED TODAY,
6 THE 15TH. SO IT SPECIFICALLY SAYS THAT YOU HAVE TALKED
7 TO YOUR ATTORNEY CONCERNING THE SPEEDY TRIAL DEADLINES,
8 YOUR RIGHT TO A SPEEDY TRIAL, AND THE SIXTH AMENDMENT OF
9 THE UNITED STATES CONSTITUTION, AND THAT YOU ARE
10 AGREEING TO WAIVE THOSE RIGHTS, AND YOU DO NOT OPPOSE --
11 ALL RIGHT. YOU DON'T OPPOSE THE GOVERNMENT'S MOTION,
12 BUT AT THIS POINT I AM GOING TO BE DENYING THE
13 GOVERNMENT'S MOTION AND GRANTING YOURS. BECAUSE I NEED
14 THE BASIS FOR THE MOTION, WHICH IS THE PSYCHOLOGICAL
15 EVALUATION AND HIS AGREEMENT. OBVIOUSLY HE WANTS THAT
16 TO HAPPEN.

17 YOU ARE NOT UNDER THE INFLUENCE OF ANY
18 DRUGS, ALCOHOL OR MEDICATIONS THAT WOULD IMPAIR. I SURE
19 HOPE NOT.

20 THE DEFENDANT: NO.

21 THE COURT: ALL RIGHT. NOW, YOU KNOW, TO
22 THE STANDING ORDERS, THERE ARE STANDING ORDERS IN PLACE
23 RELATED TO THE WHOLE COVID SITUATION WHICH IS REFERENCED
24 HERE, SO I GUESS YOUR ATTORNEY HAS ALSO DISCUSSED THOSE
25 WITH YOU, CORRECT?

1 THE DEFENDANT: CORRECT.

2 THE COURT: OKAY. THE GOVERNMENT HAS NO
3 OPPOSITION. HOW MUCH TIME DO WE THINK WE NEED TO NOW
4 GET TO -- SO WHAT IS TODAY? SO 14 DAYS FROM YESTERDAY.
5 I MEAN 30 DAYS FROM THE 14TH IS WHAT I AM TRYING TO SAY.

6 MR. WOODWARD: YOUR HONOR, I BELIEVE I
7 PUT IN MY MOTION AT LEAST 60 DAYS. I AM NOT QUITE SURE
8 HOW LONG IT'S GOING TO TAKE DR. DATTILIO TO GENERATE A
9 REPORT ONCE HE MEETS WITH HIM.

10 THE COURT: SO HE IS NOT GOING TO -- DO
11 YOU HAVE A NEW TIME SET UP FOR THIS EVALUATION?

12 MR. WOODWARD: HE DOES NOT HAVE A NEW
13 TIME SET UP. HE WAS WAITING TO SET UP THE TIME WHEN HE
14 HAD SOME IDEA WHEN MR. NERO WAS GOING TO GET OUT OF THE
15 SHU. I NOW KNOW THAT IT'S 30 DAYS FROM YESTERDAY, SO I
16 CAN CALL DR. DATTILIO TODAY AND LET HIM KNOW SO HE CAN
17 SCHEDULE THAT APPOINTMENT.

18 THE COURT: I THINK I NEED TO GIVE HIM AT
19 LEAST 30 TO 45 DAYS AFTER THAT TO DO HIS EVALUATION.

20 MR. DAVISON: YES, YOUR HONOR. I MEAN,
21 FROM MY EXPERIENCE THAT WOULD TAKE SOME TIME FOR HIM TO
22 REDUCE THAT TO A REPORT. AND THEN IF NEED BE, IF
23 COUNSEL AND I NEEDED TO GET TOGETHER REGARDING THE
24 FINDINGS OF THAT REPORT, THAT WOULD BE, OF COURSE,
25 ADDITIONAL TIME.

1 THE COURT: THE GOVERNMENT IS NOT GOING
2 -- I DON'T KNOW EXACTLY WHAT WE ARE TRYING TO UNCOVER IN
3 THIS EVALUATION, BUT IS THE GOVERNMENT THINKING THAT
4 THEY ARE GOING TO NEED TO DO AN EVALUATION SEPARATE AND
5 APART FROM DR. DATTILIO, OR DOES THAT REMAIN TO BE SEEN?

6 MR. DAVISON: NOT AT THIS TIME.

7 THE COURT: OKAY. ALL RIGHT. SO MR.
8 NERO, IT'S GOING TO BE IMPORTANT NOT TO HAVE ANY MORE
9 DISAGREEMENTS. ONCE YOU GET OUT OF THE SHU, HOPEFULLY
10 IT WILL BE VERY QUICKLY SET UP FOR YOUR EVALUATION TO
11 TAKE PLACE. AND THEN ONCE WE HAVE THAT AND ALL OF THE
12 ATTORNEYS OBVIOUSLY WILL TALK AND YOU WILL TALK TO YOUR
13 ATTORNEY AS TO HOW YOU WANT TO PROCEED IN THIS CASE. AT
14 THE END OF THE DAY, IT'S TOTALLY YOUR RIGHT TO GO TO
15 TRIAL IF YOU CHOOSE TO DO SO, OR IF YOU DECIDE YOU WANT
16 A NON-TRIAL DISPOSITION, AND YOUR COUNSEL WILL CERTAINLY
17 BE TALKING TO YOU ABOUT THAT, OKAY?

18 THE DEFENDANT: OKAY.

19 THE COURT: IS THERE ANYTHING ELSE? I
20 WILL GRANT THE DEFENDANT'S MOTION TO CONTINUE, AND WE
21 WILL GET THAT ON THE DOCKET. AND I WILL PICK A NEW
22 TRIAL DATE, BUT I AM DEFINITELY GOING TO PICK A DATE
23 THAT GIVES ENOUGH TIME FOR THE REPORT FOR YOU ALL TO
24 TALK, OKAY? ANYTHING ELSE?

25 MR. DAVISON: NO, YOUR HONOR, THANK YOU.

1 THE COURT: ALL RIGHT.

2 MR. WOODWARD: NO, YOUR HONOR.

3 THE COURT: AND MR. NERO, HOW ABOUT FROM
4 YOU?

5 THE DEFENDANT: NO, YOUR HONOR.

6 THE COURT: ANY QUESTIONS?

7 THE DEFENDANT: NO.

8 THE COURT: ALL RIGHT. THANK YOU-ALL FOR
9 BEING HERE TODAY, AND GOOD LUCK TO EVERYONE.

10 ALL COUNSEL: THANK YOU, YOUR HONOR.

11 (COURT ADJOURNED.)

12

13 I CERTIFY THAT THE FOREGOING IS A CORRECT
14 TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
15 ABOVE-ENTITLED MATTER.

16 December 22, 2021
17 DATE

Lynn Gligor
OFFICIAL COURT REPORTER

18 LYNN GLIGOR, RMR.

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1	5:16	AT [8] - 3:25, 6:9, 6:15, 7:12, 8:7, 8:18, 9:6, 9:13	CONSTITUTION [1] - 7:9	DENYING [1] - 7:12
1250 [1] - 1:15	ADDITIONAL [1] - 8:25	ATTORNEY [4] - 6:22, 7:7, 7:24, 9:13	CONTINUE [3] - 4:6, 4:12, 9:20	DID [1] - 6:7
14 [1] - 8:4	ADJOURNED [1] - 10:11	ATTORNEYS [2] - 1:14, 9:12	CONTINUED [1] - 2:1	DIDN'T [1] - 7:3
15 [1] - 1:8	AFTER [1] - 8:19		CORRECT [9] - 4:17, 4:18, 4:21, 4:22, 6:19, 6:20, 7:25, 8:1, 10:13	DIFFICULTIES [2] - 4:16, 4:20
15TH [1] - 7:6	AFTERNOON [7] - 3:2, 3:10, 3:11, 3:12, 3:14, 3:15, 3:16	B	CORRECTION [1] - 5:1	DISAGREEMENT [1] - 4:25
19106 [3] - 1:9, 1:15, 1:20	AGITATED [1] - 5:13	BASED [1] - 4:8	COUNSEL [6] - 1:16, 2:4, 3:7, 8:23, 9:16, 10:10	DISAGREEMENTS [1] - 9:9
19401 [1] - 2:3	AGO [1] - 3:20	BASIS [1] - 7:14	COURSE [1] - 8:24	DISCUSSED [1] - 7:24
2	AGREEING [1] - 7:10	BE [13] - 3:3, 3:21, 4:11, 4:13, 5:4, 6:18, 7:12, 8:22, 8:24, 9:5, 9:8, 9:10, 9:17	COURT [33] - 1:1, 1:18, 3:1, 3:2, 3:11, 3:14, 3:18, 4:20, 4:23, 5:2, 5:4, 5:8, 5:17, 5:23, 6:3, 6:12, 6:14, 6:21, 6:25, 7:5, 7:21, 8:2, 8:10, 8:18, 9:1, 9:7, 9:19, 10:1, 10:3, 10:6, 10:8, 10:11, 10:17	DISPOSITION [2] - 4:3, 9:16
2021 [1] - 1:8	AGREEMENT [1] - 7:15	BECAUSE [7] - 3:19, 3:20, 3:22, 4:4, 4:14, 6:9, 7:13	COURTHOUSE [1] - 1:19	DISTRICT [2] - 1:1, 1:2
21-88 [1] - 3:6	AIDED [1] - 1:22	BEFORE [3] - 1:10, 6:10, 6:16	COURTROOM [2] - 1:8, 6:11	DO [11] - 5:9, 5:11, 5:17, 6:12, 7:4, 7:10, 8:3, 8:10, 8:19, 9:4, 9:15
21-CR-088-1 [1] - 1:5	ALCOHOL [1] - 7:18	BEHALF [1] - 3:13	COVID [3] - 3:22, 4:9, 7:23	DOCKET [2] - 3:6, 9:21
2609 [1] - 1:19	ALL [12] - 3:14, 3:18, 4:8, 7:11, 7:21, 9:7, 9:11, 9:23, 10:1, 10:8, 10:10	BEING [2] - 3:25, 10:9	CRIMINAL [2] - 1:3, 3:5	DOCTOR [1] - 5:15
29 [1] - 5:7	AM [6] - 3:4, 6:4, 7:12, 8:5, 8:7, 9:22	BELIEVE [1] - 8:6		DOES [4] - 5:11, 5:22, 8:12, 9:5
3	AMENDMENT [2] - 6:6, 7:8	BENCH [1] - 6:15		DON'T [3] - 4:9, 7:11, 9:2
30 [4] - 5:6, 8:5, 8:15, 8:19	AMERICA [2] - 1:3, 3:5	BIG [1] - 5:24		DONE [1] - 4:16
4	AN [3] - 3:23, 4:4, 9:4	BUT [9] - 4:3, 4:7, 4:9, 4:12, 5:17, 7:3, 7:12, 9:3, 9:22		DR [5] - 5:10, 5:12, 8:8, 8:16, 9:5
45 [1] - 8:19	AND [31] - 3:15, 3:20, 3:23, 4:2, 4:8, 4:13, 4:15, 4:20, 5:14, 5:23, 5:24, 5:25, 6:21, 7:5, 7:8, 7:9, 7:10, 7:13, 7:15, 8:16, 8:22, 8:23, 9:4, 9:11, 9:12, 9:16, 9:20, 9:21, 10:3, 10:9	BY [3] - 1:22, 1:22, 6:18		DRUGS [1] - 7:18
5	ANTHONY [2] - 1:6, 3:5	C		E
509 [1] - 2:2	ANY [3] - 7:17, 9:8, 10:6	CALL [1] - 8:16		EASTERN [1] - 1:2
5B [1] - 1:8	ANYBODY [1] - 4:23	CALLING [1] - 3:4		ELABORATE [1] - 4:23
6	ANYTHING [2] - 9:19, 9:24	CAN [5] - 3:21, 4:9, 4:10, 8:16	D	ELSE [2] - 9:19, 9:24
60 [1] - 8:7	APART [1] - 9:5	CASE [4] - 1:3, 3:4, 3:25, 9:13	DATE [3] - 9:22, 10:17	END [1] - 9:14
601 [1] - 1:19	APPEARANCES [2] - 1:13, 2:1	CERTAIN [1] - 3:22	DATED [1] - 7:5	ENOUGH [1] - 9:23
615 [1] - 1:15	APPEARS [1] - 6:18	CERTAINLY [1] - 9:16	DATTILIO [4] - 5:10, 8:8, 8:16, 9:5	ENTITLED [1] - 10:15
7	APPOINTMENT [1] - 8:17	CERTIFY [1] - 10:13	DATTILIO'S [1] - 5:12	ESQUIRE [2] - 1:14, 2:2
7 [1] - 5:14	ARE [12] - 3:15, 3:18, 3:23, 5:4, 5:8, 5:13, 6:21, 7:9, 7:17, 7:22, 9:2, 9:4	CHESTNUT [1] - 1:15	DAVISON [7] - 1:14, 3:9, 3:11, 8:20, 9:6, 9:25	EVALUATION [13] - 4:4, 4:15, 5:9, 5:11, 5:16, 5:18, 6:1, 7:15, 8:11, 8:19, 9:3, 9:4, 9:10
8	AREA [1] - 5:20	CHOOSE [1] - 9:15	DAY [1] - 9:14	EVERYONE [2] - 3:2, 10:9
8 [1] - 5:15	AS [2] - 5:14, 9:13	CLEAR [1] - 4:14	DAYS [7] - 5:6, 5:7, 8:4, 8:5, 8:7, 8:15, 8:19	EXACTLY [1] - 9:2
856 649-4774 [1] - 1:20	ASK [1] - 7:3	CLERK [1] - 3:1	DEADLINES [1] - 7:7	EXPERIENCE [1] - 8:21
9	ASSISTANT [1] - 1:14	CLIENT [1] - 6:6	DEALING [1] - 3:23	F
9TH [1] - 5:16		CLIENTS [1] - 5:13	DECIDE [1] - 9:15	FINDINGS [1] - 8:24
A		COMMUNICATED [2] - 3:19, 3:20	DECIDES [1] - 4:2	FIRST [2] - 3:19, 6:8
ABOUT [5] - 4:14, 5:14, 6:6, 9:17, 10:3		COMPUTER [2] - 1:22, 1:22	DEFENDANT [14] - 1:6, 2:4, 3:16, 4:13, 4:22, 4:25, 5:3, 5:6, 6:20, 7:20, 8:1, 9:18, 10:5, 10:7	FOR [16] - 1:2, 1:16, 2:4, 3:7, 3:9, 4:2, 4:14, 5:6, 5:16, 7:14, 8:11, 8:21, 9:10, 9:23, 10:8
ABOVE [1] - 10:15		COMPUTER-AIDED [1] - 1:22	DEFENDANT'S [1] - 9:20	
ABOVE-ENTITLED [1] - 10:15		CONCERNING [1] - 7:7	DEFINITELY [1] - 9:22	
ACTUALLY [2] - 5:9,		CONDUCTIVE [1] - 5:14		
		CONDUCT [1] - 5:25		

FOREGOING ^[1] -

10:13

FRANCIS ^[2] - 1:6, 3:5**FRIDAY** ^[1] - 5:16**FROM** ^[10] - 4:6, 4:7,
4:12, 8:4, 8:5, 8:15,
8:21, 9:5, 10:3,
10:14

G

GAVE ^[1] - 6:13**GENERAL** ^[1] - 5:20**GENERATE** ^[1] - 8:8**GET** ^[7] - 3:21, 4:10,
8:4, 8:14, 8:23, 9:9,
9:21**GETTING** ^[1] - 4:16**GIVE** ^[1] - 8:18**GIVEN** ^[1] - 4:10**GIVES** ^[1] - 9:23**GLIGOR** ^[2] - 1:18,
10:18**GO** ^[2] - 5:23, 9:14**GOING** ^[9] - 5:4, 7:12,
8:8, 8:10, 8:14, 9:1,
9:4, 9:8, 9:22**GOOD** ^[10] - 3:2, 3:10,
3:11, 3:12, 3:14,
3:15, 3:16, 5:2, 5:3,
10:9**GOT** ^[1] - 4:6**GOVERNMENT** ^[6] -
1:16, 3:10, 4:7, 8:2,
9:1, 9:3**GOVERNMENT'S** ^[3] -
4:7, 7:11, 7:13**GRANT** ^[2] - 4:10,
9:20**GRANTING** ^[1] - 7:13**GREAT** ^[1] - 6:16**GUESS** ^[1] - 7:24

H

HAD ^[6] - 4:25, 5:16,
6:5, 6:8, 6:10, 8:14**HAPPEN** ^[1] - 7:16**HAS** ^[2] - 7:24, 8:2**HAVE** ^[13] - 3:22, 4:12,
5:24, 6:5, 6:8, 6:12,
6:14, 6:16, 7:6, 8:11,
8:12, 9:8, 9:11**HE** ^[16] - 4:2, 4:24, 5:9,
5:11, 5:14, 5:17,
5:22, 5:25, 7:15, 8:9,
8:10, 8:12, 8:13,
8:16**HEARD** ^[1] - 4:1**HEARING** ^[1] - 1:12**HELPS** ^[1] - 6:15**HERE** ^[4] - 3:18, 7:3,
7:24, 10:9**HIM** ^[8] - 5:18, 6:9,
6:10, 7:3, 8:9, 8:16,
8:18, 8:21**HIS** ^[4] - 6:6, 6:9, 7:15,
8:19**HONOR** ^[15] - 3:10,
3:13, 3:17, 4:19,
5:10, 6:2, 6:7, 6:11,
6:24, 8:6, 8:20, 9:25,
10:2, 10:5, 10:10**HONORABLE** ^[1] -
1:10**HOPE** ^[1] - 7:19**HOPEFULLY** ^[1] - 9:9**HOURS** ^[1] - 5:15**HOW** ^[6] - 3:15, 5:4,
8:3, 8:8, 9:13, 10:3

I

IDEA ^[2] - 5:2, 8:14**IF** ^[8] - 3:22, 4:2, 4:10,
5:23, 8:22, 9:15**IMPAIR** ^[1] - 7:18**IMPORTANT** ^[1] - 9:8**IN** ^[17] - 1:1, 3:21,
3:25, 4:10, 4:21,
4:24, 5:5, 5:9, 5:11,
5:18, 5:19, 6:11,
7:22, 8:7, 9:2, 9:13,
10:14**INDIVIDUAL** ^[2] -
5:19, 5:25**INFLUENCE** ^[1] - 7:17**IS** ^[25] - 3:5, 4:13,
4:14, 4:16, 4:21,
4:24, 5:9, 5:11, 5:12,
5:18, 5:24, 6:8, 6:18,
6:22, 7:14, 7:23, 8:4,
8:5, 8:10, 9:1, 9:3,
9:19, 10:13**ISSUE** ^[1] - 4:7**IT** ^[11] - 3:5, 4:2, 4:8,
4:15, 6:14, 6:17, 7:4,
7:6, 9:10**IT'S** ^[8] - 5:13, 6:25,
7:5, 8:8, 8:15, 9:8,
9:14

J

JOSH ^[2] - 1:14, 3:9**JULY** ^[4] - 1:8, 3:21,
4:10, 5:16**JUST** ^[2] - 5:13, 6:3

K

KAREN ^[1] - 1:10**KNEW** ^[1] - 3:23**KNOW** ^[5] - 5:19, 7:21,
8:15, 8:16, 9:2

L

LARA ^[1] - 6:13**LEAST** ^[2] - 8:7, 8:19**LET** ^[1] - 8:16**LIKE** ^[3] - 4:15, 5:23,
6:17**LIKELY** ^[1] - 4:1**LONG** ^[2] - 5:4, 8:8**LOOK** ^[1] - 6:15**LOOKS** ^[1] - 6:17**LOUD** ^[1] - 5:13**LUCK** ^[1] - 10:9**LYNN** ^[2] - 1:18, 10:18

M

MADE ^[1] - 4:2**MAKE** ^[1] - 6:3**MARKET** ^[1] - 1:19**MARSHAL** ^[1] - 7:2**MARSTON** ^[1] - 1:10**MATTER** ^[1] - 10:15**ME** ^[1] - 6:16**MEAN** ^[2] - 8:5, 8:20**MEDICATIONS** ^[1] -
7:18**MEET** ^[1] - 5:18**MEETS** ^[1] - 8:9**MORE** ^[3] - 4:1, 5:7,
9:8**MOST** ^[1] - 4:1**MOTION** ^[7] - 4:6,
4:12, 7:11, 7:13,
7:14, 8:7, 9:20**MR** ^[27] - 3:9, 3:11,
3:12, 3:13, 3:15, 4:2,
4:13, 4:18, 4:21,
5:10, 5:15, 5:21, 6:2,
6:7, 6:13, 6:18, 6:23,
7:2, 8:6, 8:12, 8:14,
8:20, 9:6, 9:7, 9:25,
10:2, 10:3**MUCH** ^[1] - 8:3**MY** ^[2] - 8:7, 8:21

N

NAMES ^[1] - 3:7**NEED** ^[8] - 4:1, 4:11,
4:14, 7:13, 8:3, 8:18,
8:22, 9:4**NEEDED** ^[2] - 3:22,

8:23

NEEDS ^[2] - 4:4, 5:14**NEGOTIATE** ^[1] - 4:3**NERO** ^[11] - 1:6, 3:5,
3:13, 3:15, 4:13,
4:21, 5:15, 6:18,
8:14, 9:8, 10:3**NEW** ^[3] - 8:11, 8:12,
9:21**NIRO** ^[1] - 4:2**NO** ^[6] - 7:20, 8:2,
9:25, 10:2, 10:5,
10:7**NON** ^[2] - 4:3, 9:16**NON-TRIAL** ^[2] - 4:3,
9:16**NORRISTOWN** ^[1] -
2:3**NOT** ^[13] - 5:2, 5:3,
5:11, 5:13, 7:10,
7:17, 7:19, 8:7, 8:10,
8:12, 9:1, 9:6, 9:8**NOW** ^[5] - 4:12, 4:15,
7:21, 8:3, 8:15**NUMBER** ^[2] - 1:3, 3:6

O

OBVIOUSLY ^[2] -
7:15, 9:12**OF** ^[19] - 1:2, 1:3, 3:4,
3:13, 4:8, 5:1, 6:9,
6:10, 6:17, 7:8, 7:17,
8:14, 8:24, 9:9, 9:11,
9:14, 10:14**OFFICERS** ^[1] - 5:1**OFFICIAL** ^[2] - 1:18,
10:17**OKAY** ^[10] - 5:8, 5:17,
6:16, 6:25, 7:5, 8:2,
9:7, 9:17, 9:18, 9:24**ON** ^[4] - 3:13, 4:8,
6:15, 9:21**ONCE** ^[3] - 8:9, 9:9,
9:11**ONE** ^[1] - 5:1**OPENING** ^[1] - 3:24**OPENS** ^[1] - 3:1**OPPORTUNITY** ^[1] -
6:8**OPPOSE** ^[2] - 7:10,
7:11**OPPOSITION** ^[1] - 8:3**OR** ^[4] - 5:15, 7:18,
9:5, 9:15**ORDERS** ^[3] - 4:9,
7:22**OUT** ^[2] - 8:14, 9:9

P

PA ^[4] - 1:9, 1:15,
1:20, 2:3**PENNSYLVANIA** ^[1] -
1:2**PEOPLE** ^[1] - 6:15**PHILADELPHIA** ^[3] -
1:9, 1:15, 1:20**PICK** ^[2] - 9:21, 9:22**PLACE** ^[3] - 4:5, 7:22,
9:11**PLAINTIFF** ^[1] - 1:4**PLEASE** ^[2] - 3:3, 3:7**POINT** ^[3] - 3:25, 4:8,
7:12**POSITION** ^[1] - 5:12**POSSIBLY** ^[1] - 4:2**PRISON** ^[1] - 6:9**PROCEED** ^[1] - 9:13**PROCEEDINGS** ^[2] -
1:22, 10:14**PRODUCED** ^[1] - 1:22**PROTOCOLS** ^[1] -
3:22**PSYCHOLOGICAL** ^[2]
- 4:15, 7:14**PUT** ^[2] - 6:15, 8:7

Q

QUESTIONS ^[1] - 10:6**QUICKLY** ^[1] - 9:10**QUITE** ^[2] - 6:25, 8:7

R

REASON ^[1] - 3:20**RECEIVED** ^[1] - 3:19**RECORD** ^[2] - 3:8,
10:14**RECORDED** ^[1] - 1:22**REDUCE** ^[1] - 8:22**REFERENCED** ^[1] -
7:23**REGARDING** ^[1] -
8:23**RELATED** ^[1] - 7:23**REMAIN** ^[1] - 9:5**REPORT** ^[4] - 8:9,
8:22, 8:24, 9:23**REPORTER** ^[2] - 1:18,
10:17**RIGHT** ^[11] - 3:14,
3:18, 4:15, 7:3, 7:8,
7:11, 7:21, 9:7, 9:14,
10:1, 10:8**RIGHTS** ^[4] - 6:6,
6:10, 6:17, 7:10**RMR** ^[2] - 1:18, 10:18

ROOM [3] - 1:19, 5:19, 5:24
ROOMS [2] - 5:19, 5:25

S

SAY [1] - 8:5
SAYS [2] - 5:14, 7:6
SCHEDULE [1] - 8:17
SEATED [1] - 3:3
SEEN [1] - 9:5
SEPARATE [1] - 9:4
SET [5] - 5:16, 8:11, 8:13, 9:10
SHU [7] - 4:21, 4:24, 5:5, 5:9, 5:12, 8:15, 9:9
SIGN [1] - 6:10
SIGNATURE [2] - 6:21, 7:1
SIGNED [1] - 6:18
SITTING [1] - 7:3
SITUATION [2] - 6:9, 7:23
SIXTH [2] - 6:6, 7:8
SO [14] - 4:6, 5:7, 5:15, 6:5, 6:16, 7:6, 7:24, 8:4, 8:10, 8:15, 8:16, 9:7, 9:15
SOME [2] - 8:14, 8:21
SOUNDS [1] - 4:15
SPECIFICALLY [1] - 7:6
SPEEDY [4] - 6:10, 6:17, 7:7, 7:8
SPEND [1] - 5:14
SR [1] - 2:2
STANDING [3] - 4:9, 7:22
STARTING [1] - 5:6
STATE [1] - 3:7
STATES [5] - 1:1, 1:3, 1:14, 3:4, 7:9
STATUS [1] - 1:12
STENOTYPE [1] - 1:22
STENOTYPE-COMPUTER [1] - 1:22
STREET [3] - 1:15, 1:19, 2:2
SUITE [1] - 1:15
SURE [5] - 3:21, 4:13, 6:3, 7:18, 8:7
SWEDEN [1] - 2:2

T

TAKE [4] - 4:4, 8:8,

8:21, 9:11
TALK [5] - 6:5, 6:9, 9:12, 9:24
TALKED [1] - 7:6
TALKING [1] - 9:17
THANK [4] - 6:14, 9:25, 10:8, 10:10
THAT [40] - 3:21, 3:23, 3:25, 4:1, 4:3, 4:4, 4:10, 4:13, 4:14, 4:16, 4:21, 5:12, 5:18, 5:24, 6:4, 6:8, 6:12, 6:13, 6:18, 7:6, 7:9, 7:15, 7:18, 8:15, 8:17, 8:19, 8:21, 8:22, 8:24, 9:3, 9:5, 9:11, 9:17, 9:21, 9:23, 10:13
THAT'S [8] - 4:18, 4:22, 5:2, 5:3, 5:15, 5:21, 5:25, 6:20
THE [112] - 1:1, 1:2, 1:10, 1:16, 2:4, 3:2, 3:4, 3:8, 3:9, 3:11, 3:14, 3:16, 3:18, 3:20, 3:25, 4:7, 4:8, 4:9, 4:13, 4:20, 4:21, 4:22, 4:23, 4:24, 4:25, 5:1, 5:2, 5:3, 5:4, 5:5, 5:6, 5:8, 5:9, 5:11, 5:12, 5:15, 5:16, 5:17, 5:18, 5:19, 5:23, 5:24, 5:25, 6:3, 6:5, 6:8, 6:9, 6:10, 6:11, 6:12, 6:14, 6:15, 6:20, 6:21, 6:22, 6:23, 6:25, 7:2, 7:5, 7:6, 7:7, 7:8, 7:9, 7:11, 7:12, 7:14, 7:17, 7:20, 7:21, 7:22, 7:23, 8:1, 8:2, 8:5, 8:10, 8:13, 8:14, 8:18, 8:23, 9:1, 9:3, 9:7, 9:9, 9:11, 9:14, 9:18, 9:19, 9:20, 9:21, 9:23, 10:1, 10:3, 10:5, 10:6, 10:7, 10:8, 10:13, 10:14
THEIR [1] - 3:7
THEN [4] - 4:6, 5:24, 8:22, 9:11
THERE [6] - 3:23, 4:14, 4:16, 5:24, 7:22, 9:19
THERE'S [1] - 4:4
THEY [2] - 5:24, 9:4
THINK [4] - 4:8, 4:9, 8:3, 8:18

THINKING [1] - 9:3
THIS [8] - 3:21, 4:10, 6:7, 7:12, 8:11, 9:3, 9:6, 9:13
THOSE [2] - 7:10, 7:24
TIME [12] - 4:1, 6:5, 6:8, 8:3, 8:11, 8:13, 8:21, 8:25, 9:6, 9:23
TIMOTHY [2] - 2:2, 3:13
TO [63] - 3:14, 3:21, 3:22, 4:3, 4:4, 4:6, 4:12, 4:13, 4:23, 5:4, 5:8, 5:11, 5:14, 5:23, 6:3, 6:5, 6:8, 6:9, 6:13, 6:15, 6:18, 7:3, 7:4, 7:7, 7:8, 7:10, 7:12, 7:16, 7:21, 7:23, 8:3, 8:4, 8:5, 8:8, 8:10, 8:13, 8:14, 8:18, 8:19, 8:21, 8:22, 8:23, 9:2, 9:4, 9:5, 9:8, 9:10, 9:12, 9:13, 9:14, 9:15, 9:17, 9:20, 9:22, 9:23, 10:9
TODAY [5] - 3:19, 7:5, 8:4, 8:16, 10:9
TOGETHER [1] - 8:23
TOO [1] - 7:3
TOTALLY [1] - 9:14
TRANSCRIPT [2] - 1:22, 10:14
TRANSCRIPTION [1] - 1:22
TRIAL [9] - 3:21, 4:3, 6:10, 6:17, 7:7, 7:8, 9:15, 9:16, 9:22
TRIED [1] - 4:10
TRYING [2] - 8:5, 9:2
TYPICALLY [2] - 5:12, 5:21

U

UNABLE [1] - 5:8
UNCOVER [1] - 9:2
UNDER [1] - 7:17
UNDERSTAND [1] - 4:21
UNDERSTANDING [1] - 6:4
UNITED [5] - 1:1, 1:3, 1:14, 3:4, 7:9
UP [5] - 5:16, 8:11, 8:13, 9:10

V

VERSUS [2] - 1:5, 3:5

VERY [1] - 9:10
VIEW [1] - 4:8
VISIT [1] - 5:24

W

WAITING [1] - 8:13
WAIVE [1] - 7:10
WAIVER [2] - 6:10, 6:17
WALKED [1] - 6:11
WANT [6] - 4:13, 4:23, 5:11, 7:3, 9:13, 9:15
WANTED [3] - 3:21, 5:23, 6:3
WANTS [2] - 4:3, 7:15
WAS [8] - 3:20, 3:23, 4:8, 4:9, 6:23, 7:2, 8:13, 8:14
WE [14] - 3:18, 3:19, 3:20, 3:21, 3:22, 3:23, 5:8, 5:15, 8:3, 9:2, 9:11, 9:20
WELL [2] - 3:18, 3:19
WHAT [6] - 5:21, 6:15, 6:16, 8:4, 8:5, 9:2
WHEN [2] - 8:13, 8:14
WHERE [3] - 5:17, 5:18, 5:25
WHICH [2] - 7:14, 7:23
WHILE [3] - 3:20, 5:9, 5:11
WHOLE [1] - 7:23
WHY [1] - 4:23
WILL [10] - 3:7, 5:17, 5:25, 9:10, 9:12, 9:16, 9:20, 9:21
WITH [7] - 3:23, 4:25, 5:15, 5:18, 5:19, 7:25, 8:9
WITNESS [3] - 6:22, 6:23
WONDERFUL [1] - 6:12
WOODWARD [14] - 2:2, 3:12, 3:13, 4:18, 5:10, 5:21, 6:2, 6:7, 6:13, 6:23, 7:2, 8:6, 8:12, 10:2
WOULD [5] - 4:1, 5:18, 7:18, 8:21, 8:24

Y

YES [3] - 5:21, 6:2, 8:20
YESTERDAY [3] - 5:7, 8:4, 8:15
YOU [32] - 3:15, 4:1,

5:4, 5:18, 5:19, 5:23, 6:5, 6:12, 6:14, 6:18, 6:22, 7:6, 7:9, 7:10, 7:11, 7:17, 7:21, 7:25, 8:11, 9:9, 9:12, 9:13, 9:15, 9:17, 9:23, 9:25, 10:4, 10:8, 10:10
YOU-ALL [1] - 10:8
YOUR [26] - 3:10, 3:12, 3:16, 4:18, 5:10, 6:2, 6:5, 6:7, 6:11, 6:17, 6:21, 6:22, 6:23, 7:7, 7:8, 7:24, 8:6, 8:20, 9:10, 9:12, 9:14, 9:16, 9:25, 10:2, 10:5, 10:10
YOURS [1] - 7:13